



Planning Department

TOWN OF ACTON
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MEMORANDUM

To: Planning Board

Date: February 22, 2007

From: Roland Bartl, AICP, Town Planner

R. B.

Subject: Zoning Articles for Town Meeting

Attached for your final chance to review and comment before the warrant goes to print are the zoning articles as discussed and amended at the hearing on 2/13. The petition article is what it is, and is not attached.

The Board needs to formally vote its recommendation to Town Meeting on all zoning articles, including the petition article so that it can be included in the warrant. I will need to convey to the Town Meeting planners/preparers who on the Planning Board will move the various non-petition zoning articles.

Finally, Dave Maxson came through on my request to him to comment on our zoning bylaw section for wireless facilities. And comment he did. Too much for this year. But, perhaps useful if and when there is an effort for a major overhaul of this section.

ARTICLE ZA.FINAL
(Two-thirds vote)

FLEXIBLE PARKING LOT DESIGN

To see if the Town will vote to amend the Zoning Bylaw as follows:

- A. In Section 6.7, which sets forth standard parking lot design requirements, insert a new Section 6.7.9 as follows:

6.7.9 Flexible Parking Lot Design Requirements – A Special Permit or Site Plan Special Permit Granting Authority having jurisdiction, or the Building Commissioner in cases where no special permit or site plan special permit is required, may as an alternative to strict conformance with the requirements of Sections 6.7.1, 6.7.2, 6.7.5 thru 6.7.8, and 10.4.3.6 of this Bylaw, including their subsections, and subject to the following requirements, conditions, and findings, approve a Flexible Parking Plan as follows:

6.7.9.1 The special permit or site plan special permit application shall contain a Parking Proof Plan, prepared and stamped by a Registered Professional Engineer, drawn to sufficient detail to demonstrate compliance with all applicable local, State, and Federal laws and regulations, including this Bylaw without the benefit of this Section 6.7.9. The Parking Proof Plan shall show the number of proposed parking spaces and identify the total area of impervious paved surface, parking lot landscaping, and OPEN SPACE on the LOT.

6.7.9.2 The special permit or site plan special permit application shall contain a Flexible Parking Plan, prepared and stamped by a Registered Professional Engineer, showing the same number of parking spaces as on the Parking Proof Plan and a parking lot layout that differs in whole or in part from the requirements of Sections 6.7.1, 6.7.2, 6.7.5 thru 6.7.8, and 10.4.3.6. The Flexible Parking Plan shall include sufficient detail, including drainage system details, to demonstrate compliance with all other applicable local, State, and Federal laws and regulations, and it shall identify the total area of impervious paved surface, parking lot landscaping, and OPEN SPACE on the LOT. The Flexible Parking Plan shall be submitted with a list of waivers from the stated sections of this Bylaw and supporting materials detailing why the Flexible Parking Plan is more advantageous for the site; better protects the neighbors including abutting residential properties; is more conservative in its use of natural resources; and/or overall would be in the better interest of the Town of Acton as compared to the Parking Proof Plan.

6.7.9.3 In cases where a special permit or site plan special permit is not required, the Parking Proof Plan and Flexible Parking Plan shall be submitted to the Building Commissioner.

6.7.9.4 The Flexible Parking Plan shall comply with the following minimum standards:

- a) Except for ACCESS driveways, common driveways, or walkways, all parking spaces and paved surfaces shall be set back a minimum of ten feet from any LOT line.
- b) The landscaping of the parking lots shall as a minimum comply with Section 6.9.4.7 including subsections a) through e).

6.7.9.5 The Special Permit or Site Plan Special Permit Granting Authority, or the Building Commissioner where no special permit or site plan special permit is required, may at their sole discretion approve the Flexible Parking Plan if the Board or the Building

Commissioner as applicable finds and determines that the Parking Proof Plan conforms to the provisions of this Bylaw; and that the Flexible Parking Plan conforms to Section 6.7 except as waived under this subsection 6.7.9, is more advantageous for the site, is more conservative in its use of natural resources, and overall would be in the better interest of the Town of Acton as compared to the Parking Proof Plan.

B. In Section 10.4, Site Plan Special Permit, insert under Section 10.4.3.6 the following subsection 3):

- 3) See also Section 6.7.9 for Flexible Parking Plans and potential waivers from this Section 10.4.3.6.

, or take any other action relative thereto.

SUMMARY

The zoning bylaw determines in a detailed manner the layout, design, and landscaping of parking lots in Acton. This zoning bylaw amendment would provide for an optional flexible design approach in most zoning districts. The number of parking spaces that can fit in a given area would be determined by way of a proof plan that is in compliance with the detailed standard design requirements. The same number of parking spaces may then be arranged in a different layout and pattern, subject to minimum performance standards for setbacks and landscaping that currently apply in some of Acton's village districts. The result of flexible parking design can be the more conservative use of land and natural resources, more contiguous open space, less impervious pavement coverage, less storm water runoff, and more flexibility to design a parking lot that is context sensitive and potentially more responsive to the needs of the abutters, the neighborhood, and the Town.

Direct inquiries to: Roland Bartl, Town Planner – (978) 264-9636; planning@acton-ma.gov
Selectman assigned: – ; bos@acton-ma.gov

Board of Selectmen:

Finance Committee:

Planning Board:

ARTICLE ZB.FINAL
(Two-thirds vote)

REPLACEMENTS OF HOMES ON UNDERSIZED LOTS

To see if the Town will vote to amend the Zoning Bylaw, section 8.3 – Nonconforming Structures, by inserting a new section 8.3.6 as follows:

- 8.3.6 Replacement of Single- and Two-Family Dwellings – A STRUCTURE in single family residential USE on a nonconforming LOT, that cannot otherwise be built on under the requirements of Section 8.1, may be razed and rebuilt for single family residential USE, or rebuilt for single family residential USE after damage from fire or natural disaster except flood, regardless of the degree of damage; and a STRUCTURE in two-family residential USE on a nonconforming LOT, that cannot otherwise be built on under the requirements of Section 8.1, may be razed and rebuilt for two-family residential USE, or rebuilt for two-family residential USE after damage from fire or natural disaster except flood, regardless of the degree of damage; in both cases subject to the following conditions and limitations:
- 8.3.6.1 The replacement STRUCTURE shall not exceed the FLOOR AREA RATIO on the LOT of the STRUCTURE that existed on the LOT before it was razed or damaged.
- 8.3.6.2 The replacement STRUCTURE shall meet all minimum yard and maximum height requirements of this Bylaw.
- 8.3.6.3 In the absence of architectural and plot plans for the existing structure to be razed, the FLOOR AREA RATIO shall be determined by using the information on record at the Town of Acton Assessor's office.
- 8.3.6.4 Additions to the replacement STRUCTURE may be made after two years following the date of initial occupancy of the replacement STRUCTURE, if otherwise permissible and subject to any permits and special permit that may be required.

, or take any other action relative thereto.

SUMMARY

The zoning bylaw currently allows the restoration of structures after fire, flood, or similar disaster on lots that are nonconforming due to insufficient frontage or area, either by right if the damage amounts to 50% or less of the structure's value, or by special permit if damage exceeds 50% of the value. The zoning bylaw does not currently allow the intentional demolition and rebuilding of structures on such nonconforming lots. This article would change this for single and two-family homes on such lots.

It would allow their tear-down and replacement in kind. Since 2000, the Board of Appeals heard six variance petitions to allow such replacements. The cases varied. Five variances were granted. The statutory criteria for variances – hardship due to soil conditions, shape, or topography – do not strictly apply to replacements after demolitions. Insufficient frontage or area by themselves cannot be considered hardship. This article would remove the zoning bylaw's barrier against demolition and replacement of single- and two-family residences on nonconforming lots, some of which may fall into disrepair after years of estate ownership and abandonment, become an eyesore in the neighborhood, pose a safety hazard, and may be cheaper to replace than to renovate. As proposed in the article, a replacement residence would be allowed by right if it complies with applicable setback and height requirements of the zoning bylaw and, as a barrier against speculative tear-downs, if it initially is not larger than the residence it replaces. Additions can be made later on by a home owner, just like additions can be made to existing homes on non-conforming lots. Looking only at

smaller single family homes (less than 1,500 square feet in living area) as the more likely candidates for potential speculative replacements, and evaluating their lots only for area, the Planning Department found 237 such small homes on undersized lots. This represents approximately 4% of Acton's single family housing stock.

This article would also allow by right the replacement in kind of single and two-family homes after fire or natural disaster except flood, regardless of the degree of damage that occurred.

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Board of Selectmen:

Finance Committee:

Planning Board:

ARTICLE ZC.FINAL
(Two-thirds vote)

**WIRELESS COMMUNICATION FACILITIES
AMENDMENTS**

To see if the Town will vote to amend the Zoning Bylaw, section 3.10 – Wireless Communication Facilities, as follows:

A. In section 3.10.6, add the following sentences to the end of sub-section 3.10.6.1:

“For purposes of determining the height of a Wireless Communication Facility, the height shall be the higher of the two vertical distances measured as follows:

- a) The elevation of the top of the pole structure above the mean ground elevation directly at the base of the pole; or
- b) The elevation of the top of the pole structure above the mean ground elevation within 500 feet of the base of the pole.

B. In section 3.10.6, insert new sub-sections 3.10.6.2 and 3.10.6.3 as follows:

3.10.6.2 Wireless Communication Facilities shall be single monopoles with internally mounted antennae, also known as stealth monopoles. On a case by case basis, generally when aesthetic considerations are less important, the Planning Board may allow monopoles with external flush mounted antennae, or external standard antenna arrays that extend laterally from the pole.

3.10.6.3 Wireless Communication Facilities shall be located, designed, and constructed to include a monopole that is, or that is engineered to be structurally extendable to be, the maximum height allowed under section 3.10.6.1 above capable of accommodating the maximum number of technically feasible co-locator antennae in the portion of the pole above the tree line, as well as an equipment shelter or other enclosed space physically able to, or capable of being enlarged to, fully accommodate the maximum number of wireless service transmitters and other equipment necessary for the maximum number of technically feasible co-locators at the site.

And, renumber existing sub-sections 3.10.6.2 through 3.10.6.9 to become sub-sections 3.10.6.4 through 3.10.6.11 respectively.

C. In section 3.10.6.5 (renumbered to 3.10.6.7 in B. above), insert a new sub-section e) as follows:

- e) The Planning Board may require long-term easements, leases, licenses, or other enforceable legal instruments that fully support a Wireless Communications Facility at its maximum potential technical capacity, including sufficient space for facility base equipment to accommodate the maximum number of technically feasible co-locators at the site, adequate access and utility easements to the facility from a public STREET, and the right for the maximum number of technically feasible telecommunication service provider co-locators to co-locate on the facility and to upgrade the utilities and equipment as needed for maintaining and improving service and capacity.

D. In section 3.10.6.7 (renumbered to 3.10.6.9 in B. above), delete the word “vegetation” and replace it with “foliage”.

[Note: The relevant sentence in section 3.10.6.7 currently states: The application shall also include maps showing areas where the proposed top of the Wireless Communication Facility will be visible when there is vegetation and when there is not.]

- E. In section 3.10.6.9 (renumbered to 3.10.6.11 in B. above), delete sub-section a), and renumber current sub-sections b) through j) to become sub-sections a) through i) respectively.

[Note: Section 3.10.6.9 sets forth mandatory findings that the Planning Board as the Special Permit Granting Authority for Wireless Telecommunication Facilities must make in the affirmative when granting special permits. In the current sub-section a) the required finding is that the facility “is designed to minimize any adverse visual or economic impacts on abutters and other parties in interest, as defined in M.G.L. c. 40A, s.11”.]

, or take any other action relative thereto.

SUMMARY

This article would make several amendments to the existing regulations in the zoning bylaw for wireless communication facilities, which includes cell towers. The amendments reflect lessons learned since the adoption of special permit standards for cell towers in the late 1990's. The original adoption of these standards came in response to the Federal Telecommunications Act of 1996, which, in summary, requires that Towns allow seamless mobile communications in a competitive market place. Towns may regulate cell towers to minimize their aesthetic effects, but cannot prohibit them or thwart the Federal law's intent for achieving seamless mobile communication.

Part A of this article further defines how the height of a wireless communication facility is measured.

Part B states a preference for “stealth monopoles” without externally mounted equipment, while retaining the discretion for the Planning Board, as the special permit granting authority, to allow external mounting in some cases, such as in remote locations or for small equipment installed for Town agency use. Stealth monopoles have proven to be the least noticeable type of tower.

The zoning bylaw limits the height of cell towers to 175 feet. Part B also contains an amendment that specifies that every tower must be sited and built to eventually support the maximum allowed height of 175 feet. This ensures that approved towers can be used to their maximum capacity allowed under the bylaw. The specified height usually allows all regional and national mobile phone operators to co-locate on a tower with effective signal transmission above the tree line. Every mobile phone service provider occupies a certain amount of vertical space on a tower. Sufficient tower height enlarges signal coverage areas and allows for co-location of service providers as tenants on the same tower. The trade-off is between fewer taller towers as currently allowed in the zoning bylaw, or a greater number of shorter single occupancy towers.

Part C aims to secure maximum utility of an approved tower location by requiring that all rights and easements are in place for all operators to locate on the tower, giving them access, and allowing unlimited technical and capacity upgrades.

Part D clarifies the intent of the bylaw to require a visual survey for visibility conditions in both winter and summer months.

Part E would delete one of ten findings that the Planning Board must make to grant a special permit. The subject finding, that the facility is “*is designed to minimize any adverse visual or economic impacts on abutters and other parties in interest, as defined in M.G.L. c. 40A, s.11*” is too subjective and without measurable criteria to be a helpful decision making tool. The general special permit findings of section 10.3.5 still apply, which include a finding that the proposed use will not be detrimental or injurious to the neighborhood in which it is to take place.

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Board of Selectmen:
Finance Committee:
Planning Board:

ARTICLE ZD.FINAL
(Two-thirds vote)

**REMOVAL OF OWNER OCCUPANCY REQUIREMENT
FOR MULTI-FAMILY USES**

To see if the Town will vote to amend the Zoning Bylaw, section 3, Table of Principal Uses, as follows:

A. Deleting the second and third sentences in footnote (3).

[Note: The sentences that are proposed for deletion read as follows:

"At least one of the DWELLING UNITS shall be occupied by the owner of the property. For purposes of this footnote, the owner shall be defined as one or more individuals residing in a DWELLING UNIT who hold legal or beneficial title and for whom the DWELLING UNIT is the primary residence for voting and tax purposes."]

B. Combine footnotes (3) and (4) into one new footnote (3), and renumber footnotes (5) through (12) to become footnotes (4) through (11) respectively.

, or take any other action relative thereto.

SUMMARY

This article in part A would eliminate the owner occupancy requirement for multi-family dwellings in West Acton's Village Residential District and in the South Acton Village District. These two zoning district remain the only two areas where owner occupancy is still required. No such requirement applies in the R-A, R-AA, EAV, EAV-2, or WAV districts where multi-family uses are also allowed, and no owner occupancy requirement applies to single-family homes. The owner-occupancy requirement acts as a barrier to creating rental housing stock and therefore also as a barrier to affordable market-rate rentals. The requirement is also impossible and unrealistic to enforce. Part B eliminates duplication of footnotes that would occur with the change in Part A of the article.

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Roland Bartl

From: David Maxson [david@broadcastsignallab.com]
Sent: Wednesday, February 14, 2007 5:52 PM
To: Roland Bartl; Kristin Alexander
Subject: "old" bylaw

I have put in some comments on the bylaw section I have in my possession.

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2/22/2007

accommodate amateur radio communications by the federally licensed amateur radio owner/operator of the Amateur Radio Tower(s) and such relief would not result in a substantial adverse health, safety, or aesthetic impact upon the neighborhood in the vicinity of the Amateur Radio Tower(s), or (2) denial of such relief would otherwise result in a demonstrated violation of applicable Federal Communications Commission (FCC) regulations and/or Massachusetts General Law Ch. 40A, s. 3. In acting on petitions under this section, the Board of Appeals shall apply this bylaw in a manner that reasonably allows for sufficient height of an Amateur Radio Tower or Towers so as to effectively accommodate amateur radio communications by federally licensed amateur radio operators and constitute the minimum practicable regulation necessary to accomplish the legitimate purposes of the bylaw for the protection of health, safety, and aesthetics.

3.9 Special Provisions Applicable to Nonresidential USES

- 3.9.1 High Traffic Generators – No PRINCIPAL USE which would have an anticipated average peak hour generation in excess of 1,000 vehicle trip ends or an average weekday or Saturday generation in excess of 7,500 vehicle trip ends shall be allowed. Any PRINCIPAL USE which would have an anticipated average peak hour generation in excess of 500 vehicle trip ends or an average weekday or Saturday generation in excess of 4,000 vehicle trip ends shall be required to receive a special permit from the Board of Selectmen. In predicting traffic generation under this regulation, reference shall be made to the most recent edition of the Institute of Transportation Engineers' publication "Trip Generation". If a proposed PRINCIPAL USE or relevant data thereto are not listed in said publication, the Building Commissioner may, after consultation with the Town Planner, approve the use of trip generation rates for another listed use that is similar, in terms of traffic generation, to the proposed PRINCIPAL USE. If no such listed use is sufficiently similar, a detailed traffic generation estimate (along with the methodology used), prepared by a Registered Professional Engineer experienced and qualified in traffic engineering, shall be submitted. In granting such special permit, the Board of Selectmen shall require suitable mitigation measures such as trip reduction measures and off-site improvements to roadways and STREETS.
- 3.9.2 Nonresidential USES in the KC District – On LOTS in the KC District where the FLOOR AREA RATIO exceeds 0.20, only the following USES may be located on the ground floor side of the BUILDING that is facing a STREET: Retail Store; Restaurant; Hotel, Motel Inn, Conference Center; Bed & Breakfast; Lodge or Club; Services; Commercial Entertainment; real estate agency; insurance agency; travel agency; law office; medical and dental offices; walk-in clinic; small equipment repair service; tailor; and photography studio. All other USES shall be located on BUILDING floors other than the ground level floor, on the ground level floor in a rear portion of a BUILDING, or in a BUILDING situated in the rear of other BUILDINGS that face one or more STREETS, and be hidden or screened so as to be unobtrusive when viewed from a STREET.
- 3.9.3 Nonresidential USES in the EAV District – In the EAV District, only the following USES shall be allowed on the ground floor of commercial or mixed use BUILDINGS: Retail Stores; Restaurants; Hotel, Motel, Inn, Conference Center; Bed & Breakfast; Lodge or Club; Veterinary Care; Services; Commercial Entertainment; Commercial Recreation; real estate agency; insurance agency; travel agency; law office; medical and dental offices; walk-in clinic; and Repair Shop, Technical Shop, Studio.
- 3.10 Special Requirements for Wireless Communication Facilities
- 3.10.1 Purpose – The purpose of this section is as follows:
- 3.10.1.1 to minimize adverse impacts of wireless communication facilities, satellite dishes and antennae on adjacent properties, local historic districts and residential neighborhoods;

- 3.10.1.2 to limit the overall number and height of such facilities to what is essential to serve the public convenience and necessity; and
- 3.10.1.3 to promote shared USE of facilities to reduce the need for new facilities.
- 3.10.2 No Wireless Communication Facility shall be erected or installed except in compliance with the provisions of this Section 3.10.
- 3.10.3 Applicability – This section 3.10 shall apply only to reception and transmission facilities for the purpose of personal wireless communication services identified in the Federal Telecommunications Act of 1996. Nothing in this Bylaw shall be construed to regulate or prohibit customary installations for the reception of wireless communication signals at home or business locations, and nothing in this Bylaw shall be construed to regulate or prohibit a tower or antenna installed solely for use by a federally licensed amateur radio operator. For regulations on Amateur Radio Towers see section 3.8.3.6 of this Bylaw.
- 3.10.4 General Requirements.
- 3.10.4.1 Lattice style towers and similar facilities requiring more than one leg or guy wires for support are prohibited, provided, however, additional equipment may be added to an existing lattice tower, and such a tower may be extended in height, by a special permit from the Planning Board under section 3.10.6, if the facility otherwise complies with that section and, in addition, the Planning Board finds that such addition or extension better serves the purposes of section 3.10 than a new facility.
- 3.10.4.2 All STRUCTURES associated with wireless communication facilities shall be removed within one year of cessation of USE.
- 3.10.4.3 Night lighting of Wireless Communication Facilities is prohibited except for low intensity security lights installed at or near ground level.
- 3.10.4.4 Section 6 of the Acton Zoning Bylaw shall not apply to Wireless Communication Facilities.
- 3.10.4.5 At least one sign shall be installed in a visible location at the base of, or otherwise near, every Wireless Communication Facility that provides the telephone number where the operator in charge can be reached on a 24-hour basis.
- 3.10.4.6 Nothing in this Bylaw shall be construed to regulate or prohibit a wireless communication facility on the basis of the environmental effects of radio frequency radiation (RFR) emissions, provided the facility complies with regulations of the Federal Communications Commission concerning such emissions.
- 3.10.5 Categorical Exemptions
- 3.10.5.1 In all zoning districts, a Wireless Communication Facility shall be allowed and no special permit shall be required,
- a) if the Wireless Communication Facility does not exceed 3 feet in diameter and 12 feet in height and is otherwise in compliance with applicable dimensional requirements of this Bylaw, or
 - b) if the Wireless Communication Facility is located entirely, except for necessary wiring, within a BUILDING or STRUCTURE that is occupied or used primarily for other purposes.
 - c) In addition, any new equipment owned by a personal wireless communication service provider may be mounted on a previously approved Wireless Communication Facility without a special permit, if there is no increase in height.
- 3.10.5.2 In the Office Districts (OP-1, OP-2), the Industrial Districts (LI, GI, LI-1, IP, SM), the Powder Mill District (PM), and the Limited Business District (LB), a Wireless Communication Facility shall be allowed and no special permit shall be required, if its height does not exceed applicable height limitations and, if freestanding, it is set back

Comment: These criteria are in tension. Sometimes more towers is a better idea than maximizing height and collocation. Cape Cod Commission no longer reviews 80-foot concealed antenna monopole applications, leaving them solely to the towns to address. This encourages their use, and it does not create a significant impact on the panoramas of the Cape.

Comment: This is a common belief. These types of goals are based on the 1990's perception that it always takes a humungous tower to provide service in a community. This may (or may not) be the case in Acton, with its large tracts of wooded areas. But where is the land use concentrated? Is the big tower necessary to reach where people live work and play?

Comment: People tend to focus on the antenna and its mount as the WCF, when it is the aggregate of antenna, mount, cabling, electronics and support equipment and structures that make a facility.

Comment: A notice requirement would be helpful so the town can keep track of where they are and who has taken up co-location space. Available via the code enforcement officer?

from all LOT lines at least the distance equal to the height of the facility, but not less than the otherwise applicable minimum yard requirement.

3.10.6 In all other cases, any new Wireless Communication Facility, and any increase in height or size, or reconstruction or replacement of an existing Wireless Communication Facility shall not be allowed without a special permit from the Planning Board in accordance with M.G.L. ch. 40A, s.9, subject to the following regulations, conditions and limitations:

3.10.6.1 The Wireless Communication Facility shall not exceed a height of 175 feet from ground level, or to a height that requires it to be illuminated at night under Federal Aviation Administration or Massachusetts Aeronautics Commission regulations, whichever is less.

3.10.6.2 In all Residential Districts, the Wireless Communication Facility shall be set back from all LOT lines at least the distance equal to the height of the facility, but not less than the otherwise applicable minimum yard requirement.

3.10.6.3 The Wireless Communication Facility shall be located a minimum of 500 feet away from a Local Historic District boundary.

3.10.6.4 The Wireless Communication Facility shall be separated from any existing residential BUILDING by a horizontal distance that is at least twice the height of the facility, unless the residential BUILDING and the facility are located on the same LOT.

3.10.6.5 Any Wireless Communication Facility that is not located in or on a BUILDING or STRUCTURE occupied or used for some other PRINCIPAL USE shall be designed to accommodate the maximum feasible number of users.

- a) The Planning Board may require the employment of all available technologies and antenna arrangements to minimize vertical space consumption, and require sufficient room and structural capacity for all necessary cables and antenna arrays.
- b) The Planning Board may require the owner of such Facility to permit other wireless communication service providers to locate equipment on such facility upon payment of a reasonable charge, which shall be determined by the Planning Board if the parties cannot agree.
- c) The Planning Board may require that the equipment of all users of a Wireless Communications Facility shall be subject to rearrangement on the facility if so directed by the Planning Board at a later time in its effort to maximize co-location of wireless service antennae. This may result in different vertical antennae locations, reduced vertical separation of antennae, and changes of antenna arrangements.
- d) The Planning Board may require that the equipment of all users of a Wireless Communications Facility shall be subject to relocation to another nearby facility if so directed by the Planning Board at a later time in its effort to maximize co-location of wireless service antennae. It may then order the removal of a facility after the relocation is completed.

3.10.6.6 Fencing shall be provided to control unauthorized entry to the Wireless Communication Facility.

3.10.6.7 The Special Permit application for a Wireless Communication Facility shall be accompanied by a plan showing the location of such Facility in relation to lot lines and all BUILDINGS within 500 feet, and plans for the installation or construction of the facility adequate to show compliance with the provisions of this section, and such supplemental information as may be required by the Planning Board in the Rules and Regulations for a Special Permit for Wireless Communication Facilities. The application shall also include maps showing areas where the proposed top of the Wireless Communication Facility will be visible when there is vegetation and when there is not.

Comment: I heard the discussion about requiring all towers to be 175-foot capable (and the setback for a 175-footer would apply to all new towers no matter the height). This is tantamount to pin the tail on the donkey. Blindfolded, we have no way to know if the proposal will hit the target. Many communities have large setbacks and have not first attempted to determine what the impact of these setbacks is. How many really good places for a tower of any type are removed from the table? Where are the remaining gaps, and what are the options near those gaps for providing more service? Does a strict requirement for setbacks create unintended consequences and unnecessarily limit flexibility to site compatibly and creatively?

Also, coverage is half the battle. It may turn out that after the town has full coverage with a set of tall towers, the carriers might need to return and split the difference between towers, particularly at busy or congested areas, and add facilities. This means either more tall towers, or the nesting in of smaller less conspicuous architectural towers or hidden building mounts. Make sure these alternatives are not precluded, resulting in possible unintended consequences.

Comment: How about concealing a facility totally but within the district? (Maybe not necessary, depending on how well such districts are served now). This is treating the WCF, again, as a tower with antennas.

Comment: Tower, yes???

Comment: These are great objectives. Are they enforceable?

Comment: This means towers, right???

Comment: Why just the top?

- 3.10.6.8 No Wireless Communication Facility approved hereunder shall be used for the transmission of signals other than for personal wireless communication services, except that the Planning Board may approve or require the installation of other transmission devices owned, operated, or used by the Town of Acton or any of its agencies.
- 3.10.6.9 Mandatory Findings – The Planning Board shall not issue a special permit for a Wireless Communication Facility unless it finds that the Wireless Communication Facility:
- a) is designed to minimize any adverse visual or economic impacts on abutters and other parties in interest, as defined in M.G.L. c. 40A, s.11;
 - b) cannot for technical or physical reasons be located on an existing Wireless Communication Facility that provides similar coverage;
 - c) cannot be located at any other practicably available site that is less visible to the general public due to technical requirements, topography or other unique circumstances. The applicant shall have the burden of showing what alternative sites it considered and why such sites are not practicably available;
 - d) is not designed and constructed any larger or higher than the minimum height and size necessary to accommodate its anticipated future USE and cannot be further reduced in height due to technical requirements, topography or other unique circumstances;
 - e) is sited in such a manner that it is suitably screened and, to the extent possible, not visible from residential BUILDINGS or public STREETS within 500 feet;
 - f) is colored so that it will as much as possible blend in with its surroundings when viewed from residential BUILDINGS or public STREETS within 500 feet;
 - g) is designed to accommodate the maximum number of users technologically feasible;
 - h) is necessary because there is no other Wireless Communications Facility with available space or capacity, or within the targeted coverage area;
 - i) is in compliance with applicable Federal Aviation Administration (FAA), Federal Communications Commission (FCC), Massachusetts Aeronautics Commission, and the Massachusetts Department of Public Health regulations;
 - j) complies with all applicable requirements of this Bylaw, including section 10.3.

Comment: Is "visibility" the only criterion? Less objectionable? More compatible with its surroundings?

Comment: Or siting techniques (such as on the same parcel, but in different location, or height, or design, etc)

Comment: Such criteria often overlook the idea that multiple facilities, or a rearrangement of the checkerboard of future facilities can result in a better overall plan

Comment: This seems to be a tower requirement again. The other way to blend in is to use materials, shapes, and designs that are familiar and compatible with surroundings, not necessarily blending in the coloration sense.

Comment: Fairly straightforward as these types of requirements go. Also quite broad. The regulations of each of these entities are inches thick. The FCC and DPH regs are aimed at RFE compliance which is addressed elsewhere. The FAA<MAC requirement is addressed by the no-navigation lights height limit. This para. Could be cut

Comment: Except the section specifically excluded above